IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 15265 of 2007(P)

(I.A.2002/06 IN OS 913/05 OF MUNSIFF'S COURT, KODUNGALLUR.)

PETITIONER:

SIDHARTHAN, S/O. MADATHINKAL KUNJIKITTAN
EDAVILANGU VILLAGE DESOM, KODUNGALLUR TALUK.

BY ADV. SRI.T.M.CHANDRAN
SRI.V.A.SASIDHARAN
SRI.JOSEPH ALBIN NEDUNTHALLY

RESPONDENTS:

PRAHALADAN, S/O. PUTHENKATTIL RAMAN,
LOKAMALEESWARAM VILLAGE, DESOM, KODUNGALLURE
TALUK.

BY ADV. SRI.V.M.KRISHNAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 TRUE COPY OF PETITION IN IA 2002/06 IN OS.913/05 ON THE FILE OF MUNSIFF'S COURT KODUNGALLUR.

EXT.P2 TRUE COPY OF OBJECTION DTD.24.3.07 IN IA 2002/06 IN OS.913/05 FILED BY RESPONDENT.

EXT.P3 TRUE COPY OF ORDER DTD.29.3.07 IN IA 2002/06 IN OS.913/05 ON THE FILE OF MUNSIFF'S COURT KODUNGALLUR.

EXT.P4 TRUE COPY OF PRONOTE DTD.10.10.03

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 15265 OF 2007

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Dated this the 18th day of June, 2007.

J U D G M E N T

This writ petition is filed seeking to quash the order in I.A.2002/06 in O.S.913/05. The suit is based on a promissory note. It is the contention of the defendant that he has affixed his signature in a revenue stamp which was in a blank paper and handed over to one Dhanasree Enterprises in connection with the kuri transaction and that had been misused by the plaintiff who had converted it into a promissory note and had filed a suit of this nature.

2. In this petition the specific prayer of the defendant is to compare the period when the body of the promissory note was written and the signature was put on the revenue stamp. It is also contended that he has written the address on the bottom of the promissory note and he has not written the promissory note. Therefore, it is only through scientific methods one can find out the age difference between the handwriting and the signature if any.

Therefore, being a defence which exclusively rests on this form of evidence it may not be correct for the court to shut out the evidence of the defence. I am fully aware of the fact that in a suit for money which is on the basis of a promissory note, the burden of proof is on the plaintiff and the mere admission of signature in a blank stamp paper does not amount to admission of the execution of the document. But, what can be gathered scientifically cannot be shut out and therefore the learned Munsiff ought not have rejected that application. Therefore, the order under challenge is set aside and the I.A. is allowed and the defendant is directed to suggest a finger print expert or bureau from where the report can be obtained easily because Government Forensic Bureau is having lot of pending work and it may take a long time for getting the report.

With this observations, the writ petition is disposed of.

M.N. KRISHNAN, JUDGE.

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